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11 PARTY CITY CORPORATION

12 UNITED STATES DISTRICT COURT

13 FOR THE SOUTHERN DISTRICT OF CALIFORNIA

14 LARRY McIVER,

15 Plaintiff,

16 vs.

17 TARGET CORPORATION dba  
18 TARGET #274; COST PLUS, INC. dba  
19 COST PLUS WORLD MARKET #145;  
20 FRIT ESCONDIDO PROMENADE,  
21 LLC; LA SALSA, INC. dba LA SALSA  
22 #93; APPLEBEE'S RESTAURANTS  
23 WEST, LLC dba APPLEBEE'S  
24 NEIGHBORHOOD BAR & GRILL  
25 #5711; TOYS 'R' US – DELAWARE,  
26 INC. dba TOYS 'R' US #5633; PARTY  
27 CITY CORPORATION dba PARTY  
28 CITY OF ESCONDIDO #445; INLAND  
WESTERN MDS PORTOFOLIO, LLC,

Defendants.

Case No. 08 CV 0132 IEG WMg

**DEFENDANT PARTY CITY  
CORPORATION'S ANSWER  
TO PLAINTIFF'S  
COMPLAINT**

1 Defendant Party City Corporation (erroneously sued as “PARTY CITY  
2 CORPORATION dba PARTY CITY OF ESCONDIDO) (“Defendant PCC”)  
3 hereby submits this Answer to Plaintiff Larry McIver’s (“Plaintiff”) Complaint For  
4 Damages, Restitution and Injunctive Relief (“Complaint”) as follows.  
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6 Defendant PCC denies each and every allegation in the Complaint not  
7 specifically admitted herein. Defendant PCC further denies that Plaintiff has  
8 suffered any injury, damage, or loss by reason of any act or omission on the part of  
9 Defendant PCC, denies that Plaintiff has been damaged in any amount whatsoever,  
10 and denies that Defendant PCC owes Plaintiff any amounts whatsoever.  
11

12 Responding specifically to the numbered allegations contained in the  
13 Complaint, Defendant PCC states the following:  
14

#### 15 I. SUMMARY

16  
17 1. In response to paragraph 1 of the Complaint, Defendant PCC admits  
18 that this case purports to be a civil rights action for alleged discrimination.  
19 Defendant PCC further admits that it operates the business known as Party City of  
20 Escondido #445, located at 1270 Auto Park Way, Escondido, CA 92029 (the  
21 “Facility”). Defendant PCC denies that it discriminated against Plaintiff or  
22 continues to discriminate against Plaintiff, as alleged or otherwise. Defendant PCC  
23 lacks adequate knowledge or information to admit or deny the remaining  
24 allegations in this paragraph, and on that basis denies all such remaining  
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allegations.

2. In response to paragraph 2 of the Complaint, Defendant PCC denies that Plaintiff is entitled to the relief requested, or any relief at all. Defendant PCC lacks adequate information to admit or deny the remaining allegations in this paragraph, and on that basis denies all such remaining allegations.

## II. JURISDICTION

3. In response to paragraph 3 of the Complaint, Defendant PCC admits jurisdiction for Plaintiff's claims under the Americans with Disabilities Act of 1990 (the "ADA") brought pursuant to 28 U.S.C. Sections 1331 and 1343. Except as expressly admitted herein, Defendant PCC denies each of the allegations in this paragraph.

4. In response to paragraph 4 of the Complaint, Defendant PCC admits that Plaintiff invokes this Court's supplemental jurisdiction as to certain claims. To the extent that Plaintiff does not have a colorable claim under the ADA, Defendant PCC denies that this Court has pendent jurisdiction over the state law claims. Except as expressly admitted or denied herein, Defendant PCC denies each of the allegations in this paragraph.

5. In response to paragraph 5 of the Complaint, Defendant PCC denies that Plaintiff is entitled to declaratory relief, or any relief at all. In further response to paragraph 5, Defendant PCC lacks adequate information to admit or deny the

1 remaining allegations in this paragraph, and on that basis denies all such  
2 allegations.

### 3 4 III. VENUE

5 6. In response to paragraph 6 of the Complaint, Defendant PCC admits  
6 that the FRIT Escondido Promenade, LLC (the “Property”) and the Facility are  
7 located within the jurisdiction of the United States District Court, Southern District  
8 of California. Except as expressly admitted herein, Defendant PCC denies each of  
9 the allegations in this paragraph.  
10

### 11 12 IV. PARTIES

13 7. In response to paragraph 7 of the Complaint, Defendant PCC lacks  
14 adequate information to admit or deny the allegations in this paragraph, and on that  
15 basis denies each and every allegation contained therein.  
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17 8. In response to paragraph 8 of the Complaint, Defendant PCC lacks  
18 adequate information to admit or deny the allegations in this paragraph, and on that  
19 basis denies each and every allegation contained therein.  
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21 9. In response to paragraph 9 of the Complaint, Defendant PCC lacks  
22 adequate information to admit or deny the allegations in this paragraph, and on that  
23 basis denies each and every allegation contained therein.  
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25 10. In response to paragraph 10 of the Complaint, Defendant PCC lacks  
26 adequate information to admit or deny the allegations in this paragraph, and on that  
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1 basis denies each and every allegation contained therein.

2 11. In response to paragraph 11 of the Complaint, Defendant PCC admits  
3 that it leases and operates the Facility. Defendant PCC further admits that it is a  
4 corporation. Except as expressly admitted herein, Defendant PCC denies each of  
5 the allegations in this paragraph.  
6

7 12. In response to paragraph 12 of the Complaint, Defendant PCC lacks  
8 adequate information to admit or deny the allegations in this paragraph, and on that  
9 basis denies each and every allegation contained therein.  
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11 13. In response to paragraph 13 of the Complaint, Defendant PCC lacks  
12 adequate information to admit or deny the allegations in this paragraph, and on that  
13 basis denies each and every allegation contained therein.  
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15 14. In response to paragraph 14 of the Complaint, Defendant PCC lacks  
16 adequate information to admit or deny the allegations in this paragraph, and on that  
17 basis denies each and every allegation contained therein.  
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19 15. In response to paragraph 15 of the Complaint, Defendant PCC lacks  
20 adequate information to admit or deny the allegations in this paragraph, and on that  
21 basis denies each and every allegation contained therein.  
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## 23 V. FACTS

24 16. In response to paragraph 16 of the Complaint, Defendant PCC lacks  
25 adequate information to admit or deny the allegations in this paragraph, and on that  
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1 basis denies each and every allegation contained therein.

2 17. In response to paragraph 17 of the Complaint, Defendant PCC lacks  
3 adequate information to admit or deny the allegations in this paragraph, and on that  
4 basis denies each and every allegation contained therein.  
5

6 18. In response to paragraph 18 of the Complaint, Defendant PCC lacks  
7 adequate information to admit or deny the allegations in this paragraph, and on that  
8 basis denies each and every allegation contained therein.  
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10 19. In response to paragraph 19 of the Complaint, Defendant PCC lacks  
11 adequate information to admit or deny the allegations in this paragraph, and on that  
12 basis denies each and every allegation contained therein.  
13

14 20. In response to paragraph 20, Defendant PCC admits that the Facility is  
15 a sales or retail establishment that is open to the general public. Defendant PCC  
16 further admits that the Facility is intended for nonresidential use. In further  
17 response to paragraph 20, Defendant PCC lacks adequate information to admit or  
18 deny whether the Facility's operation "affects commerce," and on that basis denies  
19 this allegation.  
20

21 21. In response to paragraph 21 of the Complaint, Defendant PCC lacks  
22 adequate information to admit or deny the allegations in this paragraph, and on that  
23 basis denies each and every allegation contained therein.  
24

25 22. In response to paragraph 22 of the Complaint, Defendant PCC lacks  
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1 adequate information to admit or deny the allegations in this paragraph, and on that  
2 basis denies each and every allegation contained therein.

3  
4 23. In response to paragraph 23 of the Complaint, Defendant PCC lacks  
5 adequate information to admit or deny the allegations in this paragraph, and on that  
6 basis denies each and every allegation contained therein.

7  
8 24. In response to paragraph 24 of the Complaint, Defendant PCC lacks  
9 adequate information to admit or deny the allegations regarding Plaintiff's  
10 purported visit or visits to the Facility or the Property. Defendant PCC denies that  
11 it was or is in violation of state or federal disability access laws or codes, including  
12 but not limited to the ADA, the Unruh Civil Rights Act, California's Disabled  
13 Persons Act, California Health and Safety Code, and Title 24 of the California  
14 Building Code (collectively, the "Laws"), as alleged or otherwise. Defendant PCC  
15 further denies that it discriminated against Plaintiff or continues to discriminate  
16 against Plaintiff, as alleged or otherwise.

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20 25. In response to paragraph 25 of the Complaint, Defendant PCC lacks  
21 adequate information to admit or deny the allegations in this paragraph, and on that  
22 basis denies each and every allegation contained therein.

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24 26. In response to paragraph 26 of the Complaint, Defendant PCC lacks  
25 adequate information to admit or deny the allegations in this paragraph, and on that  
26 basis denies each and every allegation contained therein.

1           27. In response to paragraph 27 of the Complaint, Defendant PCC lacks  
2 adequate information to admit or deny the allegations in this paragraph, and on that  
3 basis denies each and every allegation contained therein.  
4

5           28. In response to paragraph 28 of the Complaint, Defendant PCC lacks  
6 adequate information to admit or deny the allegations in this paragraph, and on that  
7 basis denies each and every allegation contained therein.  
8

9           29. In response to paragraph 29 of the Complaint, Defendant PCC lacks  
10 adequate information to admit or deny the allegations in this paragraph, and on that  
11 basis denies each and every allegation contained therein.  
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13           30. In response to paragraph 30 of the Complaint, Defendant PCC lacks  
14 adequate information to admit or deny the allegations in this paragraph, and on that  
15 basis denies each and every allegation contained therein.  
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17           31. In response to paragraph 31 of the Complaint, Defendant PCC lacks  
18 adequate information to admit or deny the allegations in this paragraph, and on that  
19 basis denies each and every allegation contained therein.  
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21           32. In response to paragraph 32 of the Complaint, Defendant PCC lacks  
22 adequate information to admit or deny the allegations in this paragraph, and on that  
23 basis denies each and every allegation contained therein.  
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25           33. In response to paragraph 33 of the Complaint, Defendant PCC lacks  
26 adequate information to admit or deny the allegations regarding Plaintiff's  
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1 knowledge of purported “barriers” at the Facility. Defendant PCC denies that it  
2 was or is in violation of the Laws, as alleged or otherwise. Defendant PCC further  
3 denies that it discriminated against Plaintiff or continues to discriminate against  
4 Plaintiff, as alleged or otherwise.  
5

6         34. In response to paragraph 34 of the Complaint, Defendant PCC lacks  
7 adequate information to admit or deny the allegations regarding Plaintiff’s  
8 allegations that he was “deterred,” and “continues to be deterred,” from visiting the  
9 Facility. Defendant PCC denies that it was or is in violation of the Laws, as  
10 alleged or otherwise. Defendant PCC further denies that it discriminated against  
11 Plaintiff or continues to discriminate against Plaintiff, as alleged or otherwise.  
12

13         35. In response to paragraph 35 of the Complaint, Defendant PCC lacks  
14 adequate information to admit or deny the allegations in this paragraph, and on that  
15 basis denies each and every allegation contained therein.  
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17         36. In response to paragraph 36 of the Complaint, Defendant PCC lacks  
18 adequate information to admit or deny the allegations in this paragraph, and on that  
19 basis denies each and every allegation contained therein.  
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21         37. In response to paragraph 37 of the Complaint, Defendant PCC lacks  
22 adequate information to admit or deny the allegations in this paragraph, and on that  
23 basis denies each and every allegation contained therein.  
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25         38. In response to paragraph 38 of the Complaint, Defendant PCC lacks  
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1 adequate information to admit or deny the allegations in this paragraph, and on that  
2 basis denies each and every allegation contained therein.

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4 39. In response to paragraph 39 of the Complaint, Defendant PCC lacks  
5 adequate information to admit or deny the allegations in this paragraph, and on that  
6 basis denies each and every allegation contained therein.

7  
8 40. In response to paragraph 40 of the Complaint, Defendant PCC lacks  
9 adequate information to admit or deny the allegations in this paragraph, and on that  
10 basis denies each and every allegation contained therein.

11  
12 41. In response to paragraph 41 of the Complaint, Defendant PCC lacks  
13 adequate information to admit or deny the allegations regarding whether Plaintiff  
14 encountered alleged barriers at the Facility and whether those alleged “barriers”  
15 were “unrelated to his disability.” Defendant PCC denies that it was or is in  
16 violation of the Laws, as alleged or otherwise. Defendant PCC further denies that  
17 it discriminated against Plaintiff or continues to discriminate against Plaintiff, as  
18 alleged or otherwise. Defendant PCC further denies that Plaintiff is entitled to the  
19 relief requested, or any relief at all.

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22 42. In response to paragraph 42 of the Complaint, Defendant PCC lacks  
23 adequate information to admit or deny the allegations in this paragraph, and on that  
24 basis denies each and every allegation contained therein.

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26  
27 43. In response to paragraph 43 of the Complaint, Defendant PCC lacks  
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1 adequate information to admit or deny the allegations in this paragraph, and on that  
2 basis denies each and every allegation contained therein.

3  
4 44. In response to paragraph 44 of the Complaint, Defendant PCC lacks  
5 adequate information to admit or deny the allegations in this paragraph, and on that  
6 basis denies each and every allegation contained therein.

7  
8 45. In response to paragraph 45 of the Complaint, Defendant PCC lacks  
9 adequate information to admit or deny the allegations in this paragraph, and on that  
10 basis denies each and every allegation contained therein.

11  
12 46. In response to paragraph 46 of the Complaint, Defendant PCC lacks  
13 adequate information to admit or deny the allegations in this paragraph, and on that  
14 basis denies each and every allegation contained therein.

15  
16 47. In response to paragraph 47 of the Complaint, Defendant PCC lacks  
17 adequate information to admit or deny the allegations in this paragraph, and on that  
18 basis denies each and every allegation contained therein.

19  
20 48. In response to paragraph 48 of the Complaint, Defendant PCC lacks  
21 adequate information to admit or deny the allegations in this paragraph, and on that  
22 basis denies each and every allegation contained therein.

23  
24 49. In response to paragraph 49 of the Complaint, Defendant PCC lacks  
25 adequate information to admit or deny the allegations in this paragraph, and on that  
26 basis denies each and every allegation contained therein.

1           50. In response to paragraph 50 of the Complaint, Defendant PCC lacks  
2 adequate information to admit or deny the allegations in this paragraph, and on that  
3 basis denies each and every allegation contained therein.  
4

5           51. In response to paragraph 51 of the Complaint, Defendant PCC lacks  
6 adequate information to admit or deny the allegations in this paragraph, and on that  
7 basis denies each and every allegation contained therein.  
8

9           52. In response to paragraph 52 of the Complaint, Defendant PCC lacks  
10 adequate information to admit or deny the allegations in this paragraph, and on that  
11 basis denies each and every allegation contained therein.  
12

13           53. In response to paragraph 53 of the Complaint, Defendant PCC lacks  
14 adequate information to admit or deny the allegations in this paragraph, and on that  
15 basis denies each and every allegation contained therein.  
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17           54. In response to paragraph 54 of the Complaint, Defendant PCC denies  
18 each of the allegations in this paragraph.  
19

20           55. In response to paragraph 55, of the Complaint, Defendant PCC admits  
21 that it operates and controls some aspects of the Facility. Defendant PCC denies  
22 that it was or is in violation of the Laws, as alleged or otherwise. Defendant PCC  
23 further denies that it discriminated against Plaintiff or continues to discriminate  
24 against Plaintiff, as alleged or otherwise.  
25

26           56. In response to paragraph 56, of the Complaint, Defendant PCC denies  
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1 that it discriminated against Plaintiff or continues to discriminate against Plaintiff,  
2 as alleged or otherwise. Defendant PCC further denies that it was or is in violation  
3 of the Laws, as alleged or otherwise. Defendant PCC further denies each and  
4 every allegation in this paragraph.  
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6 57. In response to paragraph 57 of the Complaint, Defendant PCC lacks  
7 adequate information to admit or deny the allegations in this paragraph, and on that  
8 basis denies each and every allegation contained therein.  
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10 58. In response to paragraph 58 of the Complaint, Defendant PCC lacks  
11 adequate information to admit or deny the allegations in this paragraph, and on that  
12 basis denies each and every allegation contained therein.  
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14 59. In response to paragraph 59 of the Complaint, Defendant PCC lacks  
15 adequate information to admit or deny the allegations in this paragraph, and on that  
16 basis denies each and every allegation contained therein.  
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18 60. In response to paragraph 60 of the Complaint, Defendant PCC lacks  
19 adequate information to admit or deny the allegations in this paragraph, and on that  
20 basis denies each and every allegation contained therein.  
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22 61. In response to paragraph 61 of the Complaint, Defendant PCC lacks  
23 adequate information to admit or deny the allegations in this paragraph, and on that  
24 basis denies each and every allegation contained therein.  
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26 62. In response to paragraph 62 of the Complaint, Defendant PCC lacks  
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1 adequate information to admit or deny the allegations in this paragraph, and on that  
2 basis denies each and every allegation contained therein.

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4 63. In response to paragraph 63 of the Complaint, Defendant PCC lacks  
5 adequate information to admit or deny the allegations in this paragraph, and on that  
6 basis denies each and every allegation contained therein.

7  
8 64. In response to paragraph 64 of the Complaint, Defendant PCC lacks  
9 adequate information to admit or deny the allegations in this paragraph, and on that  
10 basis denies each and every allegation contained therein.

11  
12 65. In response to paragraph 65 of the Complaint, Defendant PCC lacks  
13 adequate information to admit or deny the allegations in this paragraph, and on that  
14 basis denies each and every allegation contained therein.

15  
16 VI. FIRST CLAIM

17 Americans with Disabilities Act of 1990

18 Denial of "Full and Equal" Enjoyment and Use

19  
20 (The La Salsa Facility)

21 66. In response to paragraph 66 of the Complaint, Defendant PCC  
22 incorporates its responses to paragraphs 1 through 65 as if fully set forth herein.

23  
24 67. In response to paragraph 67 of the Complaint, Defendant PCC  
25 responds that it is not named in this cause of action and therefore no response is  
26 required.  
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1           68. In response to paragraph 68 of the Complaint, Defendant PCC  
2 responds that it is not named in this cause of action and therefore no response is  
3 required.  
4

5           69. In response to paragraph 69 of the Complaint, Defendant PCC  
6 responds that it is not named in this cause of action and therefore no response is  
7 required.  
8

9           70. In response to paragraph 70 of the Complaint, Defendant PCC  
10 responds that it is not named in this cause of action and therefore no response is  
11 required.  
12

13           71. In response to paragraph 71 of the Complaint, Defendant PCC  
14 responds that it is not named in this cause of action and therefore no response is  
15 required.  
16

17           72. In response to paragraph 72 of the Complaint, Defendant PCC  
18 responds that it is not named in this cause of action and therefore no response is  
19 required.  
20

21           73. In response to paragraph 73 of the Complaint, Defendant PCC  
22 responds that it is not named in this cause of action and therefore no response is  
23 required.  
24

25           74. In response to paragraph 74 of the Complaint, Defendant PCC  
26 responds that it is not named in this cause of action and therefore no response is  
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1 required.

2 75. In response to paragraph 75 of the Complaint, Defendant PCC  
3 responds that it is not named in this cause of action and therefore no response is  
4 required.  
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6 76. In response to paragraph 76 of the Complaint, Defendant PCC  
7 responds that it is not named in this cause of action and therefore no response is  
8 required.  
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10 77. In response to paragraph 77 of the Complaint, Defendant PCC  
11 responds that it is not named in this cause of action and therefore no response is  
12 required.  
13

14 78. In response to paragraph 78 of the Complaint, Defendant PCC  
15 responds that it is not named in this cause of action and therefore no response is  
16 required.  
17

18 79. In response to paragraph 79 of the Complaint, Defendant PCC  
19 responds that it is not named in this cause of action and therefore no response is  
20 required.  
21

22 80. In response to paragraph 80 of the Complaint, Defendant PCC  
23 responds that it is not named in this cause of action and therefore no response is  
24 required.  
25

26 81. In response to paragraph 81 of the Complaint, Defendant PCC  
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1 responds that it is not named in this cause of action and therefore no response is  
2 required.

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4 82. In response to paragraph 82 of the Complaint, Defendant PCC  
5 responds that it is not named in this cause of action and therefore no response is  
6 required.

7  
8 VII. SECOND CLAIM

9 Disabled Persons Act

10 (The La Salsa Facility)

11  
12 83. In response to paragraph 83 of the Complaint, Defendant PCC  
13 incorporates its responses to paragraphs 1 through 82 as if fully set forth herein.

14 84. In response to paragraph 84 of the Complaint, Defendant PCC  
15 responds that it is not named in this cause of action and therefore no response is  
16 required.

17  
18 85. In response to paragraph 85 of the Complaint, Defendant PCC  
19 responds that it is not named in this cause of action and therefore no response is  
20 required.

21  
22 86. In response to paragraph 86 of the Complaint, Defendant PCC  
23 responds that it is not named in this cause of action and therefore no response is  
24 required.

25  
26 87. In response to paragraph 87 of the Complaint, Defendant PCC  
27  
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1 responds that it is not named in this cause of action and therefore no response is  
2 required.

3  
4 88. In response to paragraph 88 of the Complaint, Defendant PCC  
5 responds that it is not named in this cause of action and therefore no response is  
6 required.

7  
8 89. In response to paragraph 89 of the Complaint, Defendant PCC  
9 responds that it is not named in this cause of action and therefore no response is  
10 required.

11  
12 VII. THIRD CLAIM

13 Unruh Civil Rights Act

14 (The La Salsa Facility)

15  
16 90. In response to paragraph 90 of the Complaint, Defendant PCC  
17 incorporates its responses to paragraphs 1 through 89 as if fully set forth herein.

18  
19 91. In response to paragraph 91 of the Complaint, Defendant PCC  
20 responds that it is not named in this cause of action and therefore no response is  
21 required.

22  
23 92. In response to paragraph 92 of the Complaint, Defendant PCC  
24 responds that it is not named in this cause of action and therefore no response is  
25 required.

26  
27 93. In response to paragraph 93 of the Complaint, Defendant PCC  
28

1 responds that it is not named in this cause of action and therefore no response is  
2 required.

3  
4 94. In response to paragraph 94 of the Complaint, Defendant PCC  
5 responds that it is not named in this cause of action and therefore no response is  
6 required.

7  
8 95. In response to paragraph 95 of the Complaint, Defendant PCC  
9 responds that it is not named in this cause of action and therefore no response is  
10 required.

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12 96. In response to paragraph 96 of the Complaint, Defendant PCC  
13 responds that it is not named in this cause of action and therefore no response is  
14 required.

15  
16 97. In response to paragraph 97 of the Complaint, Defendant PCC  
17 responds that it is not named in this cause of action and therefore no response is  
18 required.

19  
20 IX. FOURTH CLAIM

21 Denial of Full and Equal Access to Public Facilities

22 (The La Salsa Facility)

23  
24 98. In response to paragraph 98 of the Complaint, Defendant PCC  
25 incorporates its responses to paragraphs 1 through 97 as if fully set forth herein.

26  
27 99. In response to paragraph 99 of the Complaint, Defendant PCC

1 responds that it is not named in this cause of action and therefore no response is  
2 required.

3  
4 100. In response to paragraph 100 of the Complaint, Defendant PCC  
5 responds that it is not named in this cause of action and therefore no response is  
6 required.

7  
8 101. In response to paragraph 101 of the Complaint, Defendant PCC  
9 responds that it is not named in this cause of action and therefore no response is  
10 required.

11  
12 102. In response to paragraph 102 of the Complaint, Defendant PCC  
13 responds that it is not named in this cause of action and therefore no response is  
14 required.

15  
16 X. FIFTH CLAIM

17 Americans with Disabilities Act of 1990

18 Denial of "Full and Equal" Enjoyment and Use

19  
20 (The Applebee's Facility)

21 103. In response to paragraph 103 of the Complaint, Defendant PCC  
22 incorporates its responses to paragraphs 1 through 102 as if fully set forth herein.

23  
24 104. In response to paragraph 104 of the Complaint, Defendant PCC  
25 responds that it is not named in this cause of action and therefore no response is  
26 required.

1           105. In response to paragraph 105 of the Complaint, Defendant PCC  
2 responds that it is not named in this cause of action and therefore no response is  
3 required.  
4

5           106. In response to paragraph 106 of the Complaint, Defendant PCC  
6 responds that it is not named in this cause of action and therefore no response is  
7 required.  
8

9           107. In response to paragraph 107 of the Complaint, Defendant PCC  
10 responds that it is not named in this cause of action and therefore no response is  
11 required.  
12

13           108. In response to paragraph 108 of the Complaint, Defendant PCC  
14 responds that it is not named in this cause of action and therefore no response is  
15 required.  
16

17           109. In response to paragraph 109 of the Complaint, Defendant PCC  
18 responds that it is not named in this cause of action and therefore no response is  
19 required.  
20

21           110. In response to paragraph 110 of the Complaint, Defendant PCC  
22 responds that it is not named in this cause of action and therefore no response is  
23 required.  
24

25           111. In response to paragraph 111 of the Complaint, Defendant PCC  
26 responds that it is not named in this cause of action and therefore no response is  
27  
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1 required.

2 112. In response to paragraph 112 of the Complaint, Defendant PCC  
3 responds that it is not named in this cause of action and therefore no response is  
4 required.  
5

6 113. In response to paragraph 113 of the Complaint, Defendant PCC  
7 responds that it is not named in this cause of action and therefore no response is  
8 required.  
9

10 114. In response to paragraph 114 of the Complaint, Defendant PCC  
11 responds that it is not named in this cause of action and therefore no response is  
12 required.  
13

14 115. In response to paragraph 115 of the Complaint, Defendant PCC  
15 responds that it is not named in this cause of action and therefore no response is  
16 required.  
17

18 116. In response to paragraph 116 of the Complaint, Defendant PCC  
19 responds that it is not named in this cause of action and therefore no response is  
20 required  
21

22 117. In response to paragraph 117 of the Complaint, Defendant PCC  
23 responds that it is not named in this cause of action and therefore no response is  
24 required.  
25

26 118. In response to paragraph 118 of the Complaint, Defendant PCC  
27  
28

1 responds that it is not named in this cause of action and therefore no response is  
2 required

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4 119. In response to paragraph 119 of the Complaint, Defendant PCC  
5 responds that it is not named in this cause of action and therefore no response is  
6 required

7  
8 XI. SIXTH CLAIM

9 Disabled Persons Act

10 (The Applebee's Facility)

11  
12 120. In response to paragraph 120 of the Complaint, Defendant PCC  
13 incorporates its responses to paragraphs 1 through 119 as if fully set forth herein.

14 121. In response to paragraph 121 of the Complaint, Defendant PCC  
15 responds that it is not named in this cause of action and therefore no response is  
16 required.

17  
18 122. In response to paragraph 122 of the Complaint, Defendant PCC  
19 responds that it is not named in this cause of action and therefore no response is  
20 required.

21  
22 123. In response to paragraph 123 of the Complaint, Defendant PCC  
23 responds that it is not named in this cause of action and therefore no response is  
24 required.

25  
26 124. In response to paragraph 124 of the Complaint, Defendant PCC  
27

1 responds that it is not named in this cause of action and therefore no response is  
2 required.

3  
4 125. In response to paragraph 125 of the Complaint, Defendant PCC  
5 responds that it is not named in this cause of action and therefore no response is  
6 required.

7  
8 126. In response to paragraph 126 of the Complaint, Defendant PCC  
9 responds that it is not named in this cause of action and therefore no response is  
10 required.

11  
12 XII. SEVENTH CLAIM

13 Unruh Civil Rights Act

14 (The Applebee's Facility)

15  
16 127. In response to paragraph 127 of the Complaint, Defendant PCC  
17 incorporates its responses to paragraphs 1 through 126 as if fully set forth herein.

18  
19 128. In response to paragraph 128 of the Complaint, Defendant PCC  
20 responds that it is not named in this cause of action and therefore no response is  
21 required.

22  
23 129. In response to paragraph 129 of the Complaint, Defendant PCC  
24 responds that it is not named in this cause of action and therefore no response is  
25 required.

26  
27 130. In response to paragraph 130 of the Complaint, Defendant PCC



1 responds that it is not named in this cause of action and therefore no response is  
2 required.

3  
4 131. In response to paragraph 131 of the Complaint, Defendant PCC  
5 responds that it is not named in this cause of action and therefore no response is  
6 required.

7  
8 132. In response to paragraph 132 of the Complaint, Defendant PCC  
9 responds that it is not named in this cause of action and therefore no response is  
10 required.

11  
12 133. In response to paragraph 133 of the Complaint, Defendant PCC  
13 responds that it is not named in this cause of action and therefore no response is  
14 required.

15  
16 134. In response to paragraph 134 of the Complaint, Defendant PCC  
17 responds that it is not named in this cause of action and therefore no response is  
18 required.

19  
20 XIII. EIGHTH CLAIM

21 Denial of Full and Equal Access to Public Facilities

22 (The Applebee's Facility)

23  
24 135. In response to paragraph 135 of the Complaint, Defendant PCC  
25 incorporates its responses to paragraphs 1 through 134 as if fully set forth herein.

26  
27 136. In response to paragraph 136 of the Complaint, Defendant PCC

1 responds that it is not named in this cause of action and therefore no response is  
2 required.

3  
4 137. In response to paragraph 137 of the Complaint, Defendant PCC  
5 responds that it is not named in this cause of action and therefore no response is  
6 required.

7  
8 138. In response to paragraph 138 of the Complaint, Defendant PCC  
9 responds that it is not named in this cause of action and therefore no response is  
10 required.

11  
12 139. In response to paragraph 139 of the Complaint, Defendant PCC  
13 responds that it is not named in this cause of action and therefore no response is  
14 required.

15  
16 XIV. NINTH CLAIM

17 Americans with Disabilities Act of 1990

18 Denial of "Full and Equal" Enjoyment and Use

19  
20 (The Cost Plus Facility)

21 140. In response to paragraph 140 of the Complaint, Defendant PCC  
22 incorporates its responses to paragraphs 1 through 139 as if fully set forth herein.

23  
24 141. In response to paragraph 141 of the Complaint, Defendant PCC  
25 responds that it is not named in this cause of action and therefore no response is  
26 required.

1           142. In response to paragraph 142 of the Complaint, Defendant PCC  
2 responds that it is not named in this cause of action and therefore no response is  
3 required.  
4

5           143. In response to paragraph 143, Defendant PCC responds that it is not  
6 named in this cause of action and therefore no response is required.  
7

8           144. In response to paragraph 144, Defendant PCC responds that it is not  
9 named in this cause of action and therefore no response is required.  
10

11           145. In response to paragraph 145 of the Complaint, Defendant PCC  
12 responds that it is not named in this cause of action and therefore no response is  
13 required.  
14

15           146. In response to paragraph 146 of the Complaint, Defendant PCC  
16 responds that it is not named in this cause of action and therefore no response is  
17 required.  
18

19           147. In response to paragraph 147 of the Complaint, Defendant PCC  
20 responds that it is not named in this cause of action and therefore no response is  
21 required.  
22

23           148. In response to paragraph 148 of the Complaint, Defendant PCC  
24 responds that it is not named in this cause of action and therefore no response is  
25 required.  
26

27           149. In response to paragraph 149 of the Complaint, Defendant PCC  
28

1 responds that it is not named in this cause of action and therefore no response is  
2 required.

3  
4 150. In response to paragraph 150 of the Complaint, Defendant PCC  
5 responds that it is not named in this cause of action and therefore no response is  
6 required.

7  
8 151. In response to paragraph 151 of the Complaint, Defendant PCC  
9 responds that it is not named in this cause of action and therefore no response is  
10 required.

11  
12 152. In response to paragraph 152 of the Complaint, Defendant PCC  
13 responds that it is not named in this cause of action and therefore no response is  
14 required.

15  
16 153. In response to paragraph 153 of the Complaint, Defendant PCC  
17 responds that it is not named in this cause of action and therefore no response is  
18 required.

19  
20 154. In response to paragraph 154 of the Complaint, Defendant PCC  
21 responds that it is not named in this cause of action and therefore no response is  
22 required.

23  
24 155. In response to paragraph 155 of the Complaint, Defendant PCC  
25 responds that it is not named in this cause of action and therefore no response is  
26 required.  
27

1           156. In response to paragraph 156 of the Complaint, Defendant PCC  
2 responds that it is not named in this cause of action and therefore no response is  
3 required .  
4

5                                   XV. TENTH CLAIM

6                                   Disabled Persons Act

7                                   (The Cost Plus Facility)  
8

9           157. In response to paragraph 157 of the Complaint, Defendant PCC  
10 incorporates its responses to paragraphs 1 through 156 as if fully set forth herein.  
11

12           158. In response to paragraph 158 of the Complaint, Defendant PCC  
13 responds that it is not named in this cause of action and therefore no response is  
14 required.  
15

16           159. In response to paragraph 159 of the Complaint, Defendant PCC  
17 responds that it is not named in this cause of action and therefore no response is  
18 required.  
19

20           160. In response to paragraph 160 of the Complaint, Defendant PCC  
21 responds that it is not named in this cause of action and therefore no response is  
22 required.  
23

24           161. In response to paragraph 161 of the Complaint, Defendant PCC  
25 responds that it is not named in this cause of action and therefore no response is  
26 required.  
27  
28

162. In response to paragraph 162 of the Complaint, Defendant PCC responds that it is not named in this cause of action and therefore no response is required.

163. In response to paragraph 163 of the Complaint, Defendant PCC responds that it is not named in this cause of action and therefore no response is required.

## XVI. ELEVENTH CLAIM

## Unruh Civil Rights Act

(The Cost Plus Facility)

164. In response to paragraph 164 of the Complaint, Defendant PCC incorporates its responses to paragraphs 1 through 163 as if fully set forth herein.

165. In response to paragraph 165 of the Complaint, Defendant PCC responds that it is not named in this cause of action and therefore no response is required.

166. In response to paragraph 166 of the Complaint, Defendant PCC responds that it is not named in this cause of action and therefore no response is required.

167. In response to paragraph 167 of the Complaint, Defendant PCC responds that it is not named in this cause of action and therefore no response is required.

1           168. In response to paragraph 168 of the Complaint, Defendant PCC  
2 responds that it is not named in this cause of action and therefore no response is  
3 required.  
4

5           169. In response to paragraph 169 of the Complaint, Defendant PCC  
6 responds that it is not named in this cause of action and therefore no response is  
7 required.  
8

9           170. In response to paragraph 170 of the Complaint, Defendant PCC  
10 responds that it is not named in this cause of action and therefore no response is  
11 required.  
12

13           171. In response to paragraph 171 of the Complaint, Defendant PCC  
14 responds that it is not named in this cause of action and therefore no response is  
15 required.  
16

17                                   XVII. TWELFTH CLAIM

18                                   Denial of Full and Equal Access to Public Facilities

19                                   (The Cost Plus Facility)

20  
21           172. In response to paragraph 172 of the Complaint, Defendant PCC  
22 incorporates its responses to paragraphs 1 through 171 as if fully set forth herein.  
23

24           173. In response to paragraph 173 of the Complaint, Defendant PCC  
25 responds that it is not named in this cause of action and therefore no response is  
26 required.  
27  
28

1           174. In response to paragraph 174 of the Complaint, Defendant PCC  
2 responds that it is not named in this cause of action and therefore no response is  
3 required.  
4

5           175. In response to paragraph 175 of the Complaint, Defendant PCC  
6 responds that it is not named in this cause of action and therefore no response is  
7 required.  
8

9           176. In response to paragraph 176 of the Complaint, Defendant PCC  
10 responds that it is not named in this cause of action and therefore no response is  
11 required.  
12

13                                   XVIII. THIRTEENTH CLAIM

14                                   Americans with Disabilities Act of 1990

15                                   Denial of "Full and Equal" Enjoyment and Use

16                                   (The Toys 'R' Us Facility)

17  
18           177. In response to paragraph 177 of the Complaint, Defendant PCC  
19 incorporates its responses to paragraphs 1 through 176 as if fully set forth herein.  
20

21           178. In response to paragraph 178 of the Complaint, Defendant PCC  
22 responds that it is not named in this cause of action and therefore no response is  
23 required.  
24

25           179. In response to paragraph 179 of the Complaint, Defendant PCC  
26 responds that it is not named in this cause of action and therefore no response is  
27  
28



1 required.

2 180. In response to paragraph 180 of the Complaint, Defendant PCC  
3 responds that it is not named in this cause of action and therefore no response is  
4 required.  
5

6 181. In response to paragraph 181 of the Complaint, Defendant PCC  
7 responds that it is not named in this cause of action and therefore no response is  
8 required.  
9

10 182. In response to paragraph 182 of the Complaint, Defendant PCC  
11 responds that it is not named in this cause of action and therefore no response is  
12 required.  
13

14 183. In response to paragraph 183 of the Complaint, Defendant PCC  
15 responds that it is not named in this cause of action and therefore no response is  
16 required.  
17

18 184. In response to paragraph 184 of the Complaint, Defendant PCC  
19 responds that it is not named in this cause of action and therefore no response is  
20 required.  
21

22 185. In response to paragraph 185 of the Complaint, Defendant PCC  
23 responds that it is not named in this cause of action and therefore no response is  
24 required.  
25

26 186. In response to paragraph 186 of the Complaint, Defendant PCC  
27  
28

1 responds that it is not named in this cause of action and therefore no response is  
2 required.

3  
4 187. In response to paragraph 187 of the Complaint, Defendant PCC  
5 responds that it is not named in this cause of action and therefore no response is  
6 required.

7  
8 188. In response to paragraph 188 of the Complaint, Defendant PCC  
9 responds that it is not named in this cause of action and therefore no response is  
10 required.

11  
12 189. In response to paragraph 189 of the Complaint, Defendant PCC  
13 responds that it is not named in this cause of action and therefore no response is  
14 required.

15  
16 190. In response to paragraph 190 of the Complaint, Defendant PCC  
17 responds that it is not named in this cause of action and therefore no response is  
18 required.

19  
20 191. In response to paragraph 191 of the Complaint, Defendant PCC  
21 responds that it is not named in this cause of action and therefore no response is  
22 required.

23  
24 192. In response to paragraph 192 of the Complaint, Defendant PCC  
25 responds that it is not named in this cause of action and therefore no response is  
26 required.  
27  
28

1           193. In response to paragraph 193 of the Complaint, Defendant PCC  
2 responds that it is not named in this cause of action and therefore no response is  
3 required.  
4

5                                   XIX. FOURTEENTH CLAIM

6                                   Disabled Persons Act

7                                   (The Toys 'R' Us Facility)

8  
9           194. In response to paragraph 194 of the Complaint, Defendant PCC  
10 incorporates its responses to paragraphs 1 through 193 as if fully set forth herein.  
11

12           195. In response to paragraph 195 of the Complaint, Defendant PCC  
13 responds that it is not named in this cause of action and therefore no response is  
14 required.  
15

16           196. In response to paragraph 196 of the Complaint, Defendant PCC  
17 responds that it is not named in this cause of action and therefore no response is  
18 required.  
19

20           197. In response to paragraph 197 of the Complaint, Defendant PCC  
21 responds that it is not named in this cause of action and therefore no response is  
22 required.  
23

24           198. In response to paragraph 198 of the Complaint, Defendant PCC  
25 responds that it is not named in this cause of action and therefore no response is  
26 required.  
27  
28

199. In response to paragraph 199 of the Complaint, Defendant PCC responds that it is not named in this cause of action and therefore no response is required.

200. In response to paragraph 200 of the Complaint, Defendant PCC responds that it is not named in this cause of action and therefore no response is required.

## XX. FIFTEENTH CLAIM

# Unruh Civil Rights Act

(The Toys 'R' Us Facility)

201. In response to paragraph 201 of the Complaint, Defendant PCC incorporates its responses to paragraphs 1 through 200 as if fully set forth herein.

202. In response to paragraph 202 of the Complaint, Defendant PCC responds that it is not named in this cause of action and therefore no response is required.

203. In response to paragraph 203 of the Complaint, Defendant PCC responds that it is not named in this cause of action and therefore no response is required.

204. In response to paragraph 204 of the Complaint, Defendant PCC responds that it is not named in this cause of action and therefore no response is required.

205. In response to paragraph 205 of the Complaint, Defendant PCC responds that it is not named in this cause of action and therefore no response is required.

206. In response to paragraph 206 of the Complaint, Defendant PCC responds that it is not named in this cause of action and therefore no response is required.

207. In response to paragraph 207 of the Complaint, Defendant PCC responds that it is not named in this cause of action and therefore no response is required.

208. In response to paragraph 208 of the Complaint, Defendant PCC responds that it is not named in this cause of action and therefore no response is required.

## XXI. SIXTEENTH CLAIM

## Denial of Full and Equal Access to Public Facilities

(The Toys 'R' Us Facility)

209. In response to paragraph 209 of the Complaint, Defendant PCC incorporates its responses to paragraphs 1 through 208 as if fully set forth herein.

210. In response to paragraph 210 of the Complaint, Defendant PCC responds that it is not named in this cause of action and therefore no response is required.

211. In response to paragraph 211 of the Complaint, Defendant PCC responds that it is not named in this cause of action and therefore no response is required.

212. In response to paragraph 212 of the Complaint, Defendant PCC responds that it is not named in this cause of action and therefore no response is required.

213. In response to paragraph 213 of the Complaint, Defendant PCC responds that it is not named in this cause of action and therefore no response is required.

## XXII. SEVENTEENTH CLAIM

## Americans With Disabilities Act

## Denial of “Full and Equal” Enjoyment and Use

(The Party City Facility)

214. In response to paragraph 214 of the Complaint, Defendant PCC incorporates its responses to paragraphs 1 through 213 as if fully set forth herein.

215. In response to paragraph 215 of the Complaint, Defendant PCC admits that Plaintiff purports to cite certain portions of 42 U.S.C. Section 12182(a). In further response to paragraph 215, Defendant PCC states that the language of 42 U.S.C. Section 12182(a) speaks for itself.

216. In response to paragraph 216, Defendant PCC denies each and every

1 allegation contained therein.

2 Failure to Remove architectural Barriers in an Existing Facility

3  
4 217. In response to paragraph 217, Defendant PCC admits that Plaintiff  
5 purports to cite certain portions of 42 U.S.C. Sections 12181(9) and  
6 12182(b)(2)(A)(iv). In further response to paragraph 217, Defendant PCC states  
7 that the language of 42 U.S.C. Sections 12181(9) and 12182(b)(2)(A)(iv) speaks  
8 for itself.  
9

10 218. In response to paragraph 218, Defendant PCC admits that Plaintiff  
11 purports to cite certain portions of 42 U.S.C. Section 12182(b)(2)(A)(v). In further  
12 response to paragraph 218, Defendant PCC states that the language of 42 U.S.C.  
13 Section 12182(b)(2)(A)(v) speaks for itself.  
14

15  
16 219. In response to paragraph 219, Defendant PCC denies each and every  
17 allegation contained therein.

18 220. In response to paragraph 220, Defendant PCC denies each and every  
19 allegation contained therein.  
20

21 Failure to Design and Construct an Accessible Facility

22  
23 221. In response to paragraph 221 of the Complaint, Defendant PCC  
24 admits that the Facility is subject to certain provisions of the Laws. Except as  
25 expressly admitted herein, Defendant PCC denies all of the allegations in this  
26 paragraph.  
27

1           222. In response to paragraph 222 of the Complaint, Defendant PCC  
2 admits that Plaintiff purports to cite certain portions of 42 U.S.C. Section  
3 12183(a)(1). In further response to paragraph 222, Defendant PCC states that the  
4 language of 42 U.S.C. Section 12183(a)(1) speaks for itself.  
5

6           223. In response to paragraph 223, Defendant PCC denies each and every  
7 allegation contained therein.  
8

9                           Failure to Make an Altered Facility Accessible

10           224. In response to paragraph 224 of the Complaint, Defendant PCC  
11 admits that the Facility is subject to certain provisions of the Laws. Except as  
12 expressly admitted herein, Defendant PCC denies all of the allegations in this  
13 paragraph.  
14

15           225. In response to paragraph 225 of the Complaint, Defendant PCC  
16 admits that Plaintiff purports to cite certain portions of 42 U.S.C. Section  
17 12183(a)(2). In further response to paragraph 225, Defendant PCC states that the  
18 language of 42 U.S.C. Section 12183(a)(2) speaks for itself.  
19

20           226. In response to paragraph 226, Defendant PCC denies each and every  
21 allegation contained therein.  
22

23                           Failure to Modify Existing Policies and Procedures

24           227. In response to paragraph 227 of the Complaint, Defendant PCC  
25 admits that Plaintiff purports to cite certain portions of 42 U.S.C. Section  
26  
27  
28



1 12182(b)(2)(A)(ii). In further response to paragraph 495, Defendant PCC states  
2 that the language of 42 U.S.C. Section 12182(b)(2)(A)(ii) speaks for itself.  
3

4 228. In response to paragraph 228, Defendant PCC denies each and every  
5 allegation contained therein.

6 229. In response to paragraph 229 of the Complaint, Defendant PCC denies  
7 that Plaintiff is entitled to the relief requested, or any relief at all. Defendant PCC  
8 further denies that it was or is in violation of the Laws, as alleged or otherwise.  
9 Defendant PCC further denies that it discriminated against Plaintiff or continues to  
10 discriminate against Plaintiff, as alleged or otherwise.  
11  
12

13 230. In response to paragraph 230 of the Complaint, Defendant PCC denies  
14 that Plaintiff is entitled to the relief requested, or any relief at all. Defendant PCC  
15 further denies that it was or is in violation of the Laws, as alleged or otherwise.  
16 Defendant PCC further denies that it discriminated against Plaintiff or continues to  
17 discriminate against Plaintiff, as alleged or otherwise.  
18  
19

### 20 XXIII. EIGHTEENTH CLAIM

#### 21 Disabled Persons Act

#### 22 (The Party City Facility)

23  
24 231. In response to paragraph 231 of the Complaint, Defendant PCC  
25 incorporates its responses to paragraphs 1 through 230 as if fully set forth herein.  
26

27 232. In response to paragraph 232 of the Complaint, Defendant PCC  
28

1 admits that Plaintiff purports to cite certain portions of California Civil Code  
2 Section 54. In further response to paragraph 232, Defendant PCC states that the  
3 language of Civil Code Section 54 speaks for itself.  
4

5 233. In response to paragraph 233 of the Complaint, Defendant PCC  
6 admits that Plaintiff purports to cite certain portions of California Civil Code  
7 Section 54.1. In further response to paragraph 233, Defendant PCC states that the  
8 language of Civil Code Section 54.1 speaks for itself.  
9

10 234. In response to paragraph 234 of the Complaint, Defendant PCC  
11 admits that Plaintiff purports to cite certain portions of California Civil Code  
12 Sections 54(c) and 54.1(d). In further response to paragraph 234, Defendant PCC  
13 states that the language of Civil Code Sections 54(c) and 54.1(d) speaks for itself.  
14  
15

16 235. In response to paragraph 235, Defendant PCC denies each and every  
17 allegation contained therein.  
18

19 236. In response to paragraph 236 of the Complaint, Defendant PCC denies  
20 that Plaintiff is entitled to the relief requested, or any relief at all. Defendant PCC  
21 further denies that it was or is in violation of the Laws, as alleged or otherwise.  
22 Defendant PCC further denies that it discriminated against Plaintiff or continues to  
23 discriminate against Plaintiff, as alleged or otherwise.  
24

25 237. In response to paragraph 237 of the Complaint, Defendant PCC denies  
26 that Plaintiff is entitled to the relief requested, or any relief at all. Defendant PCC  
27  
28

1 further denies that it was or is in violation of the Laws, as alleged or otherwise.  
2 Defendant PCC further denies that it discriminated against Plaintiff or continues to  
3 discriminate against Plaintiff, as alleged or otherwise.  
4

5 XXIV. NINETEENTH CLAIM

6 Unruh Civil Rights Act

7 (The Party City Facility)

8  
9 238. In response to paragraph 238 of the Complaint, Defendant PCC  
10 incorporates its responses to paragraphs 1 through 237 as if fully set forth herein.  
11

12 239. In response to paragraph 239 of the Complaint, Defendant PCC  
13 admits that Plaintiff purports to cite certain portions of California Civil Code  
14 Section 51. In further response to paragraph 239, Defendant PCC states that the  
15 language of Civil Code Section 51 speaks for itself.  
16

17 240. In response to paragraph 240 of the Complaint, Defendant PCC  
18 admits that Plaintiff purports to cite certain portions of California Civil Code  
19 Section 51.5. In further response to paragraph 240, Defendant PCC states that the  
20 language of Civil Code Section 51.5 speaks for itself.  
21

22 241. In response to paragraph 241 of the Complaint, Defendant PCC  
23 admits that Plaintiff purports to cite certain portions of California Civil Code  
24 Section 51(f). In further response to paragraph 241, Defendant PCC states that the  
25 language of Civil Code Section 51(f) speaks for itself.  
26  
27  
28

1           242. In response to paragraph 242, Defendant PCC denies each and every  
2 allegation contained therein.

3  
4           243. In response to paragraph 243, Defendant PCC denies each and every  
5 allegation contained therein.

6           244. In response to paragraph 244 of the Complaint, Defendant PCC denies  
7 that Plaintiff is entitled to the relief requested, or any relief at all. Defendant PCC  
8 further denies that it was or is in violation of the Laws, as alleged or otherwise.  
9 Defendant PCC further denies that it discriminated against Plaintiff or continues to  
10 discriminate against Plaintiff, as alleged or otherwise.  
11  
12

13           245. In response to paragraph 245 of the Complaint, Defendant PCC denies  
14 that Plaintiff is entitled to the relief requested, or any relief at all. Defendant PCC  
15 further denies that it was or is in violation of the Laws, as alleged or otherwise.  
16 Defendant PCC further denies that it discriminated against Plaintiff or continues to  
17 discriminate against Plaintiff, as alleged or otherwise.  
18  
19

20                           XXV. TWENTIETH CLAIM

21                               Denial of Full and Equal Access to Public Facilities

22                                       (The Party City Facility)

23  
24           246. In response to paragraph 246 of the Complaint, Defendant PCC  
25 incorporates its responses to paragraphs 1 through 245 as if fully set forth herein.

26           247. In response to paragraph 247 of the Complaint, Defendant PCC  
27  
28

1 admits that Plaintiff purports to cite certain portions of California Health and  
2 Safety Code Section 19955(a). In further response to paragraph 247, Defendant  
3 PCC states that the language of Health and Safety Code Section 19955(a) speaks  
4 for itself.  
5

6           248. In response to paragraph 248 of the Complaint, Defendant PCC  
7 admits that Plaintiff purports to cite certain portions of California Health and  
8 Safety Code Section 19959. In further response to paragraph 248, Defendant PCC  
9 states that the language of Health and Safety Code Section 19959 speaks for itself.  
10

11           249. In response to paragraph 249, Defendant PCC admits that the Facility  
12 is a “place of public accommodation” that is subject to certain provisions of the  
13 Laws, including certain provisions of the Health and Safety Code. Except as  
14 expressly admitted herein, Defendant PCC denies each and every allegation in this  
15 paragraph.  
16

17           250. In response to paragraph 250 of the Complaint, Defendant PCC denies  
18 that Plaintiff is entitled to the relief requested, or any relief at all. Defendant PCC  
19 further denies that it was or is in violation of the Laws, as alleged or otherwise.  
20 Defendant PCC further denies that it discriminated against Plaintiff or continues to  
21 discriminate against Plaintiff, as alleged or otherwise.  
22  
23  
24  
25  
26  
27  
28

XXVI. TWENTY-FIRST CLAIM

Americans with Disabilities Act of 1990

Denial of "Full and Equal" Enjoyment and Use

(The Mervyn's Facility)

251. In response to paragraph 251 of the Complaint, Defendant PCC incorporates its responses to paragraphs 1 through 250 as if fully set forth herein.

252. In response to paragraph 252 of the Complaint, Defendant PCC responds that it is not named in this cause of action and therefore no response is required.

253. In response to paragraph 253 of the Complaint, Defendant PCC responds that it is not named in this cause of action and therefore no response is required.

254. In response to paragraph 254, Defendant PCC responds that it is not named in this cause of action and therefore no response is required.

255. In response to paragraph 255, Defendant PCC responds that it is not named in this cause of action and therefore no response is required.

256. In response to paragraph 256 of the Complaint, Defendant PCC responds that it is not named in this cause of action and therefore no response is required.

257. In response to paragraph 257 of the Complaint, Defendant PCC

1 responds that it is not named in this cause of action and therefore no response is  
2 required.

3  
4 258. In response to paragraph 258 of the Complaint, Defendant PCC  
5 responds that it is not named in this cause of action and therefore no response is  
6 required.

7  
8 259. In response to paragraph 259 of the Complaint, Defendant PCC  
9 responds that it is not named in this cause of action and therefore no response is  
10 required.

11  
12 260. In response to paragraph 260 of the Complaint, Defendant PCC  
13 responds that it is not named in this cause of action and therefore no response is  
14 required.

15  
16 261. In response to paragraph 261 of the Complaint, Defendant PCC  
17 responds that it is not named in this cause of action and therefore no response is  
18 required.

19  
20 262. In response to paragraph 262 of the Complaint, Defendant PCC  
21 responds that it is not named in this cause of action and therefore no response is  
22 required.

23  
24 263. In response to paragraph 263 of the Complaint, Defendant PCC  
25 responds that it is not named in this cause of action and therefore no response is  
26 required.

1           264. In response to paragraph 264 of the Complaint, Defendant PCC  
2 responds that it is not named in this cause of action and therefore no response is  
3 required.  
4

5           265. In response to paragraph 265 of the Complaint, Defendant PCC  
6 responds that it is not named in this cause of action and therefore no response is  
7 required.  
8

9           266. In response to paragraph 266 of the Complaint, Defendant PCC  
10 responds that it is not named in this cause of action and therefore no response is  
11 required.  
12

13           267. In response to paragraph 267 of the Complaint, Defendant PCC  
14 responds that it is not named in this cause of action and therefore no response is  
15 required.  
16

17   XXVII. TWENTY-SECOND CLAIM

18   Disabled Persons Act

19   (The Mervyn's Facility)

20  
21           268. In response to paragraph 268 of the Complaint, Defendant PCC  
22 incorporates its responses to paragraphs 1 through 267 as if fully set forth herein.  
23

24           269. In response to paragraph 269 of the Complaint, Defendant PCC  
25 responds that it is not named in this cause of action and therefore no response is  
26 required.  
27



1           270. In response to paragraph 270 of the Complaint, Defendant PCC  
2 responds that it is not named in this cause of action and therefore no response is  
3 required.  
4

5           271. In response to paragraph 271 of the Complaint, Defendant PCC  
6 responds that it is not named in this cause of action and therefore no response is  
7 required.  
8

9           272. In response to paragraph 272 of the Complaint, Defendant PCC  
10 responds that it is not named in this cause of action and therefore no response is  
11 required.  
12

13           273. In response to paragraph 273 of the Complaint, Defendant PCC  
14 responds that it is not named in this cause of action and therefore no response is  
15 required.  
16

17           274. In response to paragraph 274 of the Complaint, Defendant PCC  
18 responds that it is not named in this cause of action and therefore no response is  
19 required.  
20

21                           XXVIII. TWENTY-THIRD CLAIM

22                                   Unruh Civil Rights Act

23   (The Mervyn's Facility)

24  
25           275. In response to paragraph 275 of the Complaint, Defendant PCC  
26 incorporates its responses to paragraphs 1 through 274 as if fully set forth herein.  
27  
28

1           276. In response to paragraph 276 of the Complaint, Defendant PCC  
2 responds that it is not named in this cause of action and therefore no response is  
3 required.  
4

5           277. In response to paragraph 277 of the Complaint, Defendant PCC  
6 responds that it is not named in this cause of action and therefore no response is  
7 required.  
8

9           278. In response to paragraph 278 of the Complaint, Defendant PCC  
10 responds that it is not named in this cause of action and therefore no response is  
11 required.  
12

13           279. In response to paragraph 279 of the Complaint, Defendant PCC  
14 responds that it is not named in this cause of action and therefore no response is  
15 required.  
16

17           280. In response to paragraph 280 of the Complaint, Defendant PCC  
18 responds that it is not named in this cause of action and therefore no response is  
19 required.  
20

21           281. In response to paragraph 281 of the Complaint, Defendant PCC  
22 responds that it is not named in this cause of action and therefore no response is  
23 required.  
24

25           282. In response to paragraph 282 of the Complaint, Defendant PCC  
26 responds that it is not named in this cause of action and therefore no response is  
27  
28

1 required.

2 XXIX. TWENTY-FOURTH CLAIM

3 Denial of Full and Equal Access to Public Facilities

4 (The Mervyn's Facility)

5  
6 283. In response to paragraph 283 of the Complaint, Defendant PCC  
7 incorporates its responses to paragraphs 1 through 282 as if fully set forth herein.  
8

9 284. In response to paragraph 284 of the Complaint, Defendant PCC  
10 responds that it is not named in this cause of action and therefore no response is  
11 required.  
12

13 285. In response to paragraph 285 of the Complaint, Defendant PCC  
14 responds that it is not named in this cause of action and therefore no response is  
15 required.  
16

17 286. In response to paragraph 286 of the Complaint, Defendant PCC  
18 responds that it is not named in this cause of action and therefore no response is  
19 required.  
20

21 287. In response to paragraph 287 of the Complaint, Defendant PCC  
22 responds that it is not named in this cause of action and therefore no response is  
23 required.  
24

XXX. TWENTY-FIFTH CLAIM

Americans with Disabilities Act of 1990

Denial of "Full and Equal" Enjoyment and Use

(The Target Facility)

288. In response to paragraph 288 of the Complaint, Defendant PCC incorporates its responses to paragraphs 1 through 287 as if fully set forth herein.

289. In response to paragraph 289 of the Complaint, Defendant PCC responds that it is not named in this cause of action and therefore no response is required.

290. In response to paragraph 290 of the Complaint, Defendant PCC responds that it is not named in this cause of action and therefore no response is required.

291. In response to paragraph 291, Defendant PCC responds that it is not named in this cause of action and therefore no response is required.

292. In response to paragraph 292, Defendant PCC responds that it is not named in this cause of action and therefore no response is required.

293. In response to paragraph 293 of the Complaint, Defendant PCC responds that it is not named in this cause of action and therefore no response is required.

294. In response to paragraph 294 of the Complaint, Defendant PCC

1 responds that it is not named in this cause of action and therefore no response is  
2 required.

3  
4 295. In response to paragraph 295 of the Complaint, Defendant PCC  
5 responds that it is not named in this cause of action and therefore no response is  
6 required.

7  
8 296. In response to paragraph 296 of the Complaint, Defendant PCC  
9 responds that it is not named in this cause of action and therefore no response is  
10 required.

11  
12 297. In response to paragraph 297 of the Complaint, Defendant PCC  
13 responds that it is not named in this cause of action and therefore no response is  
14 required.

15  
16 298. In response to paragraph 298 of the Complaint, Defendant PCC  
17 responds that it is not named in this cause of action and therefore no response is  
18 required.

19  
20 299. In response to paragraph 299 of the Complaint, Defendant PCC  
21 responds that it is not named in this cause of action and therefore no response is  
22 required.

23  
24 300. In response to paragraph 300 of the Complaint, Defendant PCC  
25 responds that it is not named in this cause of action and therefore no response is  
26 required.  
27

301. In response to paragraph 301 of the Complaint, Defendant PCC responds that it is not named in this cause of action and therefore no response is required.

302. In response to paragraph 302 of the Complaint, Defendant PCC responds that it is not named in this cause of action and therefore no response is required.

303. In response to paragraph 303 of the Complaint, Defendant PCC responds that it is not named in this cause of action and therefore no response is required.

304. In response to paragraph 304 of the Complaint, Defendant PCC responds that it is not named in this cause of action and therefore no response is required.

### XXXI. TWENTY-SIXTH CLAIM

## Disabled Persons Act

(The Target Facility)

305. In response to paragraph 305 of the Complaint, Defendant PCC incorporates its responses to paragraphs 1 through 304 as if fully set forth herein.

306. In response to paragraph 306 of the Complaint, Defendant PCC responds that it is not named in this cause of action and therefore no response is required.

1           307. In response to paragraph 307 of the Complaint, Defendant PCC  
2 responds that it is not named in this cause of action and therefore no response is  
3 required.  
4

5           308. In response to paragraph 308 of the Complaint, Defendant PCC  
6 responds that it is not named in this cause of action and therefore no response is  
7 required.  
8

9           309. In response to paragraph 309 of the Complaint, Defendant PCC  
10 responds that it is not named in this cause of action and therefore no response is  
11 required.  
12

13           310. In response to paragraph 310 of the Complaint, Defendant PCC  
14 responds that it is not named in this cause of action and therefore no response is  
15 required.  
16

17           311. In response to paragraph 311 of the Complaint, Defendant PCC  
18 responds that it is not named in this cause of action and therefore no response is  
19 required.  
20

21                           XXXII. TWENTY-SEVENTH CLAIM

22                                   Unruh Civil Rights Act

23   (The Target Facility)

24  
25           312. In response to paragraph 312 of the Complaint, Defendant PCC  
26 incorporates its responses to paragraphs 1 through 311 as if fully set forth herein.  
27  
28

1           313. In response to paragraph 313 of the Complaint, Defendant PCC  
2 responds that it is not named in this cause of action and therefore no response is  
3 required.  
4

5           314. In response to paragraph 314 of the Complaint, Defendant PCC  
6 responds that it is not named in this cause of action and therefore no response is  
7 required.  
8

9           315. In response to paragraph 315 of the Complaint, Defendant PCC  
10 responds that it is not named in this cause of action and therefore no response is  
11 required.  
12

13           316. In response to paragraph 316 of the Complaint, Defendant PCC  
14 responds that it is not named in this cause of action and therefore no response is  
15 required.  
16

17           317. In response to paragraph 317 of the Complaint, Defendant PCC  
18 responds that it is not named in this cause of action and therefore no response is  
19 required.  
20

21           318. In response to paragraph 318 of the Complaint, Defendant PCC  
22 responds that it is not named in this cause of action and therefore no response is  
23 required.  
24

25           319. In response to paragraph 319 of the Complaint, Defendant PCC  
26 responds that it is not named in this cause of action and therefore no response is  
27  
28



1 required.

2 XXXIII. TWENTY-EIGHTH CLAIM

3 Denial of Full and Equal Access to Public Facilities

4 (The Target Facility)

5  
6 320. In response to paragraph 320 of the Complaint, Defendant PCC  
7 incorporates its responses to paragraphs 1 through 319 as if fully set forth herein.  
8

9 321. In response to paragraph 321 of the Complaint, Defendant PCC  
10 responds that it is not named in this cause of action and therefore no response is  
11 required.  
12

13 322. In response to paragraph 322 of the Complaint, Defendant PCC  
14 responds that it is not named in this cause of action and therefore no response is  
15 required.  
16

17 323. In response to paragraph 323 of the Complaint, Defendant PCC  
18 responds that it is not named in this cause of action and therefore no response is  
19 required.  
20

21 324. In response to paragraph 324 of the Complaint, Defendant PCC  
22 responds that it is not named in this cause of action and therefore no response is  
23 required.  
24

XXXIV. TWENTY-NINTH CLAIM

Americans with Disabilities Act of 1990

Denial of "Full and Equal" Enjoyment and Use

(the Common Area Facility)

325. In response to paragraph 325 of the Complaint, Defendant PCC incorporates its responses to paragraphs 1 through 324 as if fully set forth herein.

326. In response to paragraph 326 of the Complaint, Defendant PCC responds that it is not named in this cause of action and therefore no response is required.

327. In response to paragraph 327 of the Complaint, Defendant PCC responds that it is not named in this cause of action and therefore no response is required.

328. In response to paragraph 328, Defendant PCC responds that it is not named in this cause of action and therefore no response is required.

329. In response to paragraph 329, Defendant PCC responds that it is not named in this cause of action and therefore no response is required.

330. In response to paragraph 330 of the Complaint, Defendant PCC responds that it is not named in this cause of action and therefore no response is required.

331. In response to paragraph 331 of the Complaint, Defendant PCC

1 responds that it is not named in this cause of action and therefore no response is  
2 required.

3  
4 332. In response to paragraph 332 of the Complaint, Defendant PCC  
5 responds that it is not named in this cause of action and therefore no response is  
6 required.

7  
8 333. In response to paragraph 333 of the Complaint, Defendant PCC  
9 responds that it is not named in this cause of action and therefore no response is  
10 required.

11  
12 334. In response to paragraph 334 of the Complaint, Defendant PCC  
13 responds that it is not named in this cause of action and therefore no response is  
14 required.

15  
16 335. In response to paragraph 335 of the Complaint, Defendant PCC  
17 responds that it is not named in this cause of action and therefore no response is  
18 required.

19  
20 336. In response to paragraph 336 of the Complaint, Defendant PCC  
21 responds that it is not named in this cause of action and therefore no response is  
22 required.

23  
24 337. In response to paragraph 337 of the Complaint, Defendant PCC  
25 responds that it is not named in this cause of action and therefore no response is  
26 required.  
27

338. In response to paragraph 338 of the Complaint, Defendant PCC responds that it is not named in this cause of action and therefore no response is required.

339. In response to paragraph 339 of the Complaint, Defendant PCC responds that it is not named in this cause of action and therefore no response is required.

340. In response to paragraph 340 of the Complaint, Defendant PCC responds that it is not named in this cause of action and therefore no response is required.

341. In response to paragraph 341 of the Complaint, Defendant PCC responds that it is not named in this cause of action and therefore no response is required.

### XXXV. THIRTIETH CLAIM

## Disabled Persons Act

(The Common Area Facility)

342. In response to paragraph 342 of the Complaint, Defendant PCC incorporates its responses to paragraphs 1 through 341 as if fully set forth herein.

343. In response to paragraph 343 of the Complaint, Defendant PCC responds that it is not named in this cause of action and therefore no response is required.

344. In response to paragraph 344 of the Complaint, Defendant PCC responds that it is not named in this cause of action and therefore no response is required.

345. In response to paragraph 345 of the Complaint, Defendant PCC responds that it is not named in this cause of action and therefore no response is required.

346. In response to paragraph 346 of the Complaint, Defendant PCC responds that it is not named in this cause of action and therefore no response is required.

347. In response to paragraph 347 of the Complaint, Defendant PCC responds that it is not named in this cause of action and therefore no response is required.

348. In response to paragraph 348 of the Complaint, Defendant PCC responds that it is not named in this cause of action and therefore no response is required.

### XXXVI. THIRTY-FIRST CLAIM

## Unruh Civil Rights Act

(The Common Area Facility)

349. In response to paragraph 349 of the Complaint, Defendant PCC incorporates its responses to paragraphs 1 through 348 as if fully set forth herein.

1           350. In response to paragraph 350 of the Complaint, Defendant PCC  
2 responds that it is not named in this cause of action and therefore no response is  
3 required.  
4

5           351. In response to paragraph 351 of the Complaint, Defendant PCC  
6 responds that it is not named in this cause of action and therefore no response is  
7 required.  
8

9           352. In response to paragraph 352 of the Complaint, Defendant PCC  
10 responds that it is not named in this cause of action and therefore no response is  
11 required.  
12

13           353. In response to paragraph 353 of the Complaint, Defendant PCC  
14 responds that it is not named in this cause of action and therefore no response is  
15 required.  
16

17           354. In response to paragraph 354 of the Complaint, Defendant PCC  
18 responds that it is not named in this cause of action and therefore no response is  
19 required.  
20

21           355. In response to paragraph 355 of the Complaint, Defendant PCC  
22 responds that it is not named in this cause of action and therefore no response is  
23 required.  
24

25           356. In response to paragraph 356 of the Complaint, Defendant PCC  
26 responds that it is not named in this cause of action and therefore no response is  
27  
28

1 required.

2 XXXVII. THIRTY-SECOND CLAIM

3 Denial of Full and Equal Access to Public Facilities

4 (The Common Area Facility)

5  
6 357. In response to paragraph 357 of the Complaint, Defendant PCC  
7 incorporates its responses to paragraphs 1 through 356 as if fully set forth herein.  
8

9 358. In response to paragraph 358 of the Complaint, Defendant PCC  
10 responds that it is not named in this cause of action and therefore no response is  
11 required.  
12

13 359. In response to paragraph 359 of the Complaint, Defendant PCC  
14 responds that it is not named in this cause of action and therefore no response is  
15 required.  
16

17 360. In response to paragraph 360 of the Complaint, Defendant PCC  
18 responds that it is not named in this cause of action and therefore no response is  
19 required.  
20

21 361. In response to paragraph 361 of the Complaint, Defendant PCC  
22 responds that it is not named in this cause of action and therefore no response is  
23 required.  
24

25 XXXVIII. PRAYER FOR RELIEF

26 1. In response to paragraph 1 of part XXXVIII. Prayer for Relief in the  
27  
28

1 Complaint, Defendant PCC responds that this paragraph is directed toward another  
2 party.

3  
4 2. In response to paragraph 2 of part XXXVIII. Prayer for Relief in the  
5 Complaint, Defendant PCC responds that this paragraph is directed toward another  
6 party.

7  
8 3. In response to paragraph 3 of part XXXVIII. Prayer for Relief in the  
9 Complaint, Defendant PCC responds that this paragraph is directed toward another  
10 party.

11  
12 4. In response to paragraph 4 of part XXXVIII. Prayer for Relief in the  
13 Complaint, Defendant PCC responds that this paragraph is directed toward another  
14 party.

15  
16 5. In response to paragraph 1 of part XXXVIII. Prayer for Relief in the  
17 Complaint, Defendant PCC responds that this paragraph is directed toward another  
18 party.

19  
20 XXXIX. PRAYER FOR RELIEF

21 1. In response to paragraph 1 of part XXXIX. Prayer for Relief in the  
22 Complaint, Defendant PCC responds that this paragraph is directed toward another  
23 party.

24  
25 2. In response to paragraph 2 of part XXXIX. Prayer for Relief in the  
26 Complaint, Defendant PCC responds that this paragraph is directed toward another  
27



party.

3. In response to paragraph 3 of part XXXIX. Prayer for Relief in the Complaint, Defendant PCC responds that this paragraph is directed toward another party.

4. In response to paragraph 4 of part XXXIX. Prayer for Relief in the Complaint, Defendant PCC responds that this paragraph is directed toward another party.

5. In response to paragraph 5 of part XXXIX. Prayer for Relief in the Complaint, Defendant PCC responds that this paragraph is directed toward another party.

## XL. PRAYER FOR RELIEF

1. In response to paragraph 1 of part XL. Prayer for Relief in the Complaint, Defendant PCC responds that this paragraph is directed toward another party.

2. In response to paragraph 2 of part XL. Prayer for Relief in the Complaint, Defendant PCC responds that this paragraph is directed toward another party.

3. In response to paragraph 3 of part XL. Prayer for Relief in the Complaint, Defendant PCC responds that this paragraph is directed toward another party.

4. In response to paragraph 4 of part XL. Prayer for Relief in the Complaint, Defendant PCC responds that this paragraph is directed toward another party.

5. In response to paragraph 5 of part XL. Prayer for Relief in the Complaint, Defendant PCC responds that this paragraph is directed toward another party.

## XLI. PRAYER FOR RELIEF

1. In response to paragraph 1 of part XLI. Prayer for Relief in the Complaint, Defendant PCC responds that this paragraph is directed toward another party.

2. In response to paragraph 2 of part XLI. Prayer for Relief in the Complaint, Defendant PCC responds that this paragraph is directed toward another party.

3. In response to paragraph 3 of part XLI. Prayer for Relief in the Complaint, Defendant PCC responds that this paragraph is directed toward another party.

4. In response to paragraph 4 of part XLI. Prayer for Relief in the Complaint, Defendant PCC responds that this paragraph is directed toward another party.

5. In response to paragraph 5 of part XLI. Prayer for Relief in the

1 Complaint, Defendant PCC responds that this paragraph is directed toward another  
2 party.

3  
4 XLII. PRAYER FOR RELIEF

5 1. In response to paragraph 1 of part XLII. Prayer for Relief in the  
6 Complaint, Defendant PCC denies that Plaintiff is entitled to the relief requested,  
7 or any relief at all. Defendant PCC further denies that it was or is in violation of  
8 the Laws, as alleged or otherwise. Defendant PCC further denies that it  
9 discriminated against Plaintiff or continues to discriminate against Plaintiff, as  
10 alleged or otherwise.  
11

12  
13 2. In response to paragraph 2 of part XLII. Prayer for Relief in the  
14 Complaint, Defendant PCC denies that Plaintiff is entitled to the relief requested,  
15 or any relief at all. Defendant PCC further denies that it was or is in violation of  
16 the Laws, as alleged or otherwise. Defendant PCC further denies that it  
17 discriminated against Plaintiff or continues to discriminate against Plaintiff, as  
18 alleged or otherwise.  
19

20  
21 3. In response to paragraph 3 of part XLII. Prayer for Relief in the  
22 Complaint, Defendant PCC denies that Plaintiff is entitled to the relief requested,  
23 or any relief at all. Defendant PCC further denies that it was or is in violation of  
24 the Laws, as alleged or otherwise. Defendant PCC further denies that it  
25 discriminated against Plaintiff or continues to discriminate against Plaintiff, as  
26  
27  
28

1 alleged or otherwise.

2 4. In response to paragraph 4 of part XLII. Prayer for Relief in the  
3  
4 Complaint, Defendant PCC denies that Plaintiff is entitled to the relief requested,  
5 or any relief at all. Defendant PCC further denies that it was or is in violation of  
6 the Laws, as alleged or otherwise. Defendant PCC further denies that it  
7 discriminated against Plaintiff or continues to discriminate against Plaintiff, as  
8 alleged or otherwise.  
9

10 5. In response to paragraph 5 of part XLII. Prayer for Relief in the  
11  
12 Complaint, Defendant PCC denies that Plaintiff is entitled to the relief requested,  
13 or any relief at all. Defendant PCC further denies that it was or is in violation of  
14 the Laws, as alleged or otherwise. Defendant PCC further denies that it  
15 discriminated against Plaintiff or continues to discriminate against Plaintiff, as  
16 alleged or otherwise.  
17

#### 18 XLIII. PRAYER FOR RELIEF 19

20 1. In response to paragraph 1 of part XLIII. Prayer for Relief in the  
21  
22 Complaint, Defendant PCC responds that this paragraph is directed toward another  
23 party.

24 2. In response to paragraph 2 of part XLIII. Prayer for Relief in the  
25  
26 Complaint, Defendant PCC responds that this paragraph is directed toward another  
27 party.  
28

3. In response to paragraph 3 of part XLIII. Prayer for Relief in the Complaint, Defendant PCC responds that this paragraph is directed toward another party.

4. In response to paragraph 4 of part XLIII. Prayer for Relief in the Complaint, Defendant PCC responds that this paragraph is directed toward another party.

5. In response to paragraph 5 of part XLIII. Prayer for Relief in the Complaint, Defendant PCC responds that this paragraph is directed toward another party.

## XLIV. PRAYER FOR RELIEF

1. In response to paragraph 1 of part XLIV. Prayer for Relief in the Complaint, Defendant PCC responds that this paragraph is directed toward another party.

2. In response to paragraph 2 of part XLIV. Prayer for Relief in the Complaint, Defendant PCC responds that this paragraph is directed toward another party.

3. In response to paragraph 3 of part XLIV. Prayer for Relief in the Complaint, Defendant PCC responds that this paragraph is directed toward another party.

4. In response to paragraph 4 of part XLIV. Prayer for Relief in the

1 Complaint, Defendant PCC responds that this paragraph is directed toward another  
2 party.

3  
4 5. In response to paragraph 5 of part XLIV. Prayer for Relief in the  
5 Complaint, Defendant PCC responds that this paragraph is directed toward another  
6 party.

7  
8 XLV. PRAYER FOR RELIEF

9 1. In response to paragraph 1 of part XLV. Prayer for Relief in the  
10 Complaint, Defendant PCC responds that this paragraph is directed toward another  
11 party.

12  
13 2. In response to paragraph 2 of part XLV. Prayer for Relief in the  
14 Complaint, Defendant PCC responds that this paragraph is directed toward another  
15 party.

16  
17 3. In response to paragraph 3 of part XLV. Prayer for Relief in the  
18 Complaint, Defendant PCC responds that this paragraph is directed toward another  
19 party.

20  
21 4. In response to paragraph 4 of part XLV. Prayer for Relief in the  
22 Complaint, Defendant PCC responds that this paragraph is directed toward another  
23 party.

24  
25 5. In response to paragraph 5 of part XLV. Prayer for Relief in the  
26 Complaint, Defendant PCC responds that this paragraph is directed toward another  
27 party.

1 party.

2 **AFFIRMATIVE DEFENSES**

3  
4 For its affirmative defenses, Defendant PCC alleges as follows:

5 **FIRST AFFIRMATIVE DEFENSE**

6 The Complaint fails to state a claim upon which relief may be granted.

7  
8 **SECOND AFFIRMATIVE DEFENSE**

9 The Complaint, and each purported claim for relief alleged in the Complaint,  
10 is barred to the extent that it relies on events that occurred outside the applicable  
11 statutes of limitations.

12  
13 **THIRD AFFIRMATIVE DEFENSE**

14 Plaintiff is not entitled to recovery of attorney's fees or costs from  
15 Defendant PCC on any claims alleged in the Complaint. Plaintiff's Complaint did  
16 not cause any voluntary change in Defendant PCC's conduct, and Plaintiff cannot  
17 establish that Defendant PCC violated the Americans with Disabilities Act of  
18 1990, Unruh Civil Rights Act, the Disabled Persons Act or Health & Safety Code  
19 Section 19955 *et seq.* In the alternative, to the extent that Plaintiff is entitled to  
20 recover attorney's fees or costs, such fees and costs are barred on the ground and to  
21 the extent that they were not reasonably incurred or were incurred at an excessive  
22 rate.  
23  
24  
25  
26  
27  
28

**FOURTH AFFIRMATIVE DEFENSE**

Plaintiff's claims are barred on the ground and to the extent that Plaintiff has suffered no injury in fact with respect to the claims alleged in the Complaint.

**FIFTH AFFIRMATIVE DEFENSE**

The Complaint, and each purported claim for relief alleged in the Complaint, fails because Plaintiff is estopped from seeking recovery from Defendant PCC because, among other things, Plaintiff has acted in a manner inconsistent with having enforceable rights as against Defendant PCC.

**SIXTH AFFIRMATIVE DEFENSE**

The Complaint, and each purported claim for relief alleged in the Complaint, fails because Plaintiff has waived any right to recovery by taking actions that are inconsistent with the ownership and exercise of the rights claimed in the Complaint.

**SEVENTH AFFIRMATIVE DEFENSE**

Plaintiff lacks standing to seek some or all of the injunctive relief sought in the Complaint.

**EIGHTH AFFIRMATIVE DEFENSE**

Plaintiff's prayer for injunctive relief is moot and/or will be by the time this matter is adjudicated.



1 **NINTH AFFIRMATIVE DEFENSE**

2 Plaintiff's prayer for relief is barred because there is no actual, matured  
3 controversy between the parties as to the matters for which other relief is sought in  
4 that Plaintiff filed this action before the parties could establish that an actual  
5 controversy existed.  
6

7 **TENTH AFFIRMATIVE DEFENSE**

8 Defendant PCC is excused from having made, or making, any of the  
9 architectural changes referenced in the Complaint because the laws in question  
10 excuse performance under these circumstances.  
11

12 **ELEVENTH AFFIRMATIVE DEFENSE**

13 Defendant PCC is not obligated to remove the "barriers" alleged in this  
14 Complaint to the extent that the structures and real property at issue were  
15 constructed and/or modified before the effective date of any law or regulation  
16 prohibiting the existence of any such alleged "barrier."  
17

18 **TWELFTH AFFIRMATIVE DEFENSE**

19 Plaintiff is not entitled to recover on any claim for relief in this action  
20 because Defendant PCC has substantially complied with all applicable legal  
21 requirements.  
22  
23  
24  
25  
26  
27  
28

**THIRTEENTH AFFIRMATIVE DEFENSE**

Plaintiff's conduct concerning the matters alleged in the Complaint constitute carelessness, negligence, misconduct, or bad faith, or Plaintiff was otherwise at fault, and the resulting injuries, if any, sustained by Plaintiff were proximately caused and contributed to, in whole or in part, by the conduct of the Plaintiff.

**FOURTEENTH AFFIRMATIVE DEFENSE**

In acting in the manner he did, Plaintiff unnecessarily assumed the risk that he would suffer the damages sought in this action.

**FIFTEENTH AFFIRMATIVE DEFENSE**

Plaintiff is not entitled to recover the damages sought in the Complaint because his admittance to and enjoyment of the Facility and the Property was not denied or interfered with by Defendant PCC or by any other party.

**SIXTEENTH AFFIRMATIVE DEFENSE**

Plaintiff is not entitled to seek or recover punitive damages against Defendant PCC for any of the claims for relief stated in the Complaint, nor has Plaintiff alleged facts establishing a lawful basis for the award of punitive damages.

**SEVENTEENTH AFFIRMATIVE DEFENSE**

Plaintiff is not entitled to recover punitive damages under the Complaint because such an award would violate Defendant PCC's rights under the United States Constitution and under the Constitution of the State of California, including, but not limited to, Defendant PCC's rights to procedural due process under the Constitution of the State of California and the Fourteenth Amendment of the Constitution of the United States of America; protection from excessive fines as provided in the Eighth Amendment of the Constitution of the United States of America, and Article I, Section 17 of the Constitution of the State of California; and substantive due process provided in the Constitution of the State of California and the Fifth and Fourteenth Amendments of the Constitution of the United States of America.

WHEREFORE, Defendant PCC prays as follows:

1. That Plaintiff take nothing by reason of his Complaint;
  2. That Defendant PCC be awarded judgment in this action and the Complaint be dismissed with prejudice;
  3. For reasonable attorney's fees and costs of suit incurred herein;
- and

1                   4.     For such other and further relief as the Court may deem just and  
2 proper.  
3

4  
5 Dated: March 7, 2008

6                                 Respectfully submitted,  
7

8                                 FOX ROTHSCHILD LLP

9                                 s/ David F. Faustman

10                                DAVID F. FAUSTMAN

11                                Attorneys for Defendant

12                                Party City Corporation  
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